

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING ORDINANCE NO. \_\_\_\_\_ -  
AND ADOPTING AN AMENDED ORDINANCE ESTABLISHING  
AN ECONOMIC DEVELOPMENT INCENTIVE PROGRAM  
FOR GARRARD COUNTY, KENTUCKY

WHEREAS, the general welfare and material well-being of the citizens of the Garrard County, Kentucky are beneficially impacted by the growth and development of certain industrial, office and distribution facilities; and

WHEREAS, it is in the best interest of the County of Garrard, to induce the location of certain new businesses into the area for the benefit of creating new tax resources to support public services; and

WHEREAS, public tax credits offered as inducement for the location of certain industrial, office and distribution facilities in the Commonwealth of Kentucky, and in particular in Garrard County, serve proper governmental and public purposes; and

WHEREAS, it is in the best interest of the citizens of the Garrard County, Kentucky to have quality employment opportunities available; and

WHEREAS, it is in the best interest of the County to enhance and promote development within Garrard County; and

WHEREAS, the County wishes to establish a policy to attract private investment and increased employment opportunities by establishing incentives for those employers that create substantial and quality jobs within Garrard County, Kentucky; and

WHEREAS, pursuant to Ordinance No. O-05-01-10-1 the Garrard County Fiscal Court has in effect an occupational license fee requirement for employees of 1 % percent on all net profits, salaries, wages, commissions or other compensation earned by every person for work done or services performed in Garrard County.

WHEREAS, Ordinance No. O-05-01-10-1 was previously passed by Garrard County Fiscal Court and now needs to be amended and changed to the extent that is more practical.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE  
GARRARD COUNTY KENTUCKY FISCAL COURT, THAT:

Section 1

That Ordinance No. O-05-01-10-1 is hereby amended as follows:

## Section 2

A new section of the Garrard County Occupational Tax Ordinance shall be created entitled "Garrard Jobs Development Incentive Program" is hereby adopted and described herein.

### DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Agreement" means any agreement made pursuant to this ordinance between the County and an Approved Company with respect to an Economic Development Project.

"Approved Company" means any Eligible Company seeking to locate an Economic Development Project from outside the County of Garrard into the County of Garrard or undertaking an Economic Development Project in Garrard County as an existing company.

"Affiliate" includes the following:

- (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
- (b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
- (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;
- (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
  - 1. One (1) or more claims of corporations connected through stock ownership with a common parent corporation if:
    - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
    - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or
  - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each

- corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
- (e) A grantor and a fiduciary of any trust;
  - (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
  - (g) A fiduciary of a trust and a beneficiary of that trust;
  - (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
  - (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  - (j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
  - (k) A Corporation and a partnership, including a registered limited liability partnership, if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;
  - (l) A Corporation and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
    - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
  - (m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:
    - 1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
    - 2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;
  - (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
  - (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

“Capital Investment” means the purchase or acquisition of capitalizable fixed assets. Examples include land, building, building and leasehold improvements, equipment, Furniture and fixtures. These costs are usually one-time, non-recurring costs. Items such as office supplies and inventory are not considered a capital investment. “Capital Investment” specifically includes long term lease arrangements, franchise agreements, tenant build outs and retrofits.

“Economic Development Entity” means any individual or entity who has registered with the Judge Executive’s Office prior to the initial site visit of an eligible company as a

person or entity who intends to take advantage of Section 3 (A) of this ordinance below. The Economic Development Entity is a registered entity or individual who brings an "Economic Development Project" meeting the threshold below to the county.

"Eligible Company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust or any other entity engaged in manufacturing, agribusiness, service, technology, or research and development operations.

"Full-time Equivalent Employees" means the full or part-time employees of an Approved Company, where one full-time equivalent employee's hours worked are equal to 35 hours per week.

"Debt Service" means any requirement to repay any obligations or costs incurred in conjunction with the acquisition, construction, rehabilitation, and installation of an Economic Development Project.

"Economic Development Project" means an endeavor approved by the County and related to manufacturing, service, technology, or research and development operations including, but not limited to, research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; tourist facilities; sale of goods at retail; health care and health care and health related facilities. An economic development project shall not include that portion of an endeavor devoted to an endeavor devoted to housing which does not consist of the manufacture of housing.

"Inducement" means up to a one hundred percent (100%) reduction in the quarterly occupational license fees remitted to the County (taking into consideration any offsets pursuant to Part "A" below) by the Approved Company for a term not to exceed ten (10) years nor more than \$1,000,000.00 in total;

"Rent," means the customary cost of occupancy including, but not limited to, property taxes, heating and air conditioning, electricity, water sewer and insurance.

"Threshold Criteria" means:

- (i). A minimum new annual payroll of \$100,000 that is subject to the Garrard County occupational license fee within the first year after approval of an application by Garrard County for this program; and,
- (ii) A minimum of 5 new full-time equivalent job positions within the two year after approval; and
- (iii) A minimum average annual salary or wages of \$20,000 for all full-time equivalent positions; and
- (iv) A minimum of \$100,000 in new capital investment.

### Section 3

#### ESTABLISHMENT OF INDUCEMENT

#### PART A

In an instance where an Economic Development Entity has registered with the Judge Executive's Office and brought a company meeting the Threshold Criteria above, including the definition of an "Economic Development Project" to Garrard County, the Garrard County Fiscal Court will rebate back 50% of the occupational taxes remitted by that company to the Economic Development Entity over a period of ten years.

- i. The Economic Development Entity must be registered with the Judge Executive's Office;
- ii. The approved company will remit any occupational taxes due to the tax administrator;
- iii. The Fiscal Court will approve each payment to be made to the Economic Development Entity according to this ordinance;
- iv. It is not necessary for an approved company to maintain eligibility under Part A of this ordinance.

#### PART B

To the extent any Approved Company meets the Threshold Criteria, the Approved Company may qualify for the Inducement, and the Inducement (minus any amount from Part A above) may continue for up to ten successive years, if the Approved Company maintains or exceeds the Threshold Criteria each successive year. In instances where an Economic Development Entity has qualified pursuant to Part A above, the Economic Development Entity will be entitled to their rebate irrespective of the company maintaining or exceeding the threshold in future years.

(A). The Approved Company shall submit its signed application to the Garrard County Judge Executive's Office on forms provided by the County, and will provide any additional information reasonably requested to enable the County to evaluate the application. If an application is accepted, an Agreement acknowledging eligibility and outlining the process for implementation will be executed by the County and the Approved Company. The Agreement shall also include at a minimum a description of the authorized Inducement; a provision regarding potential suspension of the Inducement as described below; and a provision that the Inducement is not assignable without the express written consent of the Garrard County Judge Executive. The decision to grant the Inducement for any Approved Company shall be solely that of the Garrard County economic advisory panel, consisting of the Judge Executive, Garrard County Economic Development Director and one Fiscal Court Magistrate appointed by the Judge Executive, who shall base its decision upon consideration of all information provided. In the event the County has not employed an Economic Development Director, the Fiscal Court shall consider the approval of the incentive herein. For the purposes of this ordinance, the Approved Company's first year shall begin on the date provided in the Agreement, but no later than twelve months from the date of execution of the Agreement by the County and the Approved Company.

(B). The Inducement shall be used for the purposes of plant and building exterior maintenance and repair, employee training and development, debt service, and/or any improvement directly related to Approved Company's real estate in the Garrard County. The Approved Company shall provide an annual report to the Garrard County

Occupational Administrator on a prescribed form and shall provide any information reasonably requested to enable the County to evaluate performance in accord with this ordinance.

(C). In any year provided in the Agreement, if the Approved Company does not comply with the Agreement by failing to create or maintain the Threshold Criteria, or to use the Inducement as stipulated in paragraph C above, the Approved Company shall be suspended from utilization of the inducements via written notification from the County until the Threshold Criteria is subsequently attained or the use of the Inducement is complied with by the Approved Company.

Section 4

Any section or part of a section or any particular provision of this ordinance which is declared by a court of appropriate jurisdiction, for any reason, to be invalid, such decision shall not affect nor invalidate the remainder of this ordinance.

Section 5

That any ordinance or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 6

That this ordinance shall take effect and be in full force when passed, published and recorded according to law.

---

John Wilson,  
Garrard County Judge Executive

ATTEST:

---

Kevin Montgomery  
Garrard County Clerk

Passed: \_\_\_\_\_ (first reading)

\_\_\_\_\_ (second reading)

Published in summary form in the Central Record this \_\_\_\_\_ day of \_\_\_\_\_, 2013.